TYPE III DEVELOPMENT & **ENVIRONMENTAL REVIEW, STAFF REPORT &** RECOMMENDATION



Form DS1402 PLD

Project Name:

GOODE CLUSTER SUBDIVISION

Case Number:

PST2009-00014, SEP2009-00050

Location:

34508 NW Pacific Highway

Request:

The applicant is requesting post decision approval to reconfigure some of the lots and add an 11th lot and 7th phase to a previously approved 10 lot subdivision. The project is

located on 51.34 acres in the R-5 zone district.

Applicant:

Moss & Associates, Inc.

717 NE 61st Street, Suite 202

Vancouver, WA 98665

(360)260-9400 ext. 37; (360)260-3509 fax

david@mossandassociates.net

Contact Person:

Moss & Associates, Inc.

David Spencer

717 NE 61st Street, Suite 202

Vancouver, WA 98665

(360)260-9400 ext. 37; (360)260-3509 fax

david@mossandassociates.net

Project Name:

GOODE CLUSTER SUBDIVISION

RECOMMENDATION

Approve subject to Conditions of Approval

Public Hearing Date: August 27, 2009

County Review Staff:

<u>Name</u>		Phone Ext.	E-mail Address	
Team Leader:	Travis Goddard	4180	Travis.goddard@clarl	

Team Leader:	Travis Goddard	4180	Travis.goddard@clark.wa.gov
Planner:	Terri Brooks	4885	Terri.brooks@clark.wa.gov

Habitat Biologist:	George Fornes	5601	George.fornes@clark.wa.gov
Wetland Biologist:	George Fornes	5601	George.fornes@clark.wa.gov
Engineer Supervisor: (Trans. & Stormwater):	Sue Stepan P.E.	4102	sue.stepan@clark.wa.gov
Engineer (Trans. & Stormwater):	Doug Boheman, PE, PLS		Doug.boheman@clark.wa.gov
Fire Marshal Office	Tom Scott	3323	tom.scott@clark.wa.gov

Comp Plan Designation: Subdivision vested to R-5

Parcel Number(s): Tax lots 14, 32, 35 (258635-000), 23 (258641-000) and

90 (258705-000) located in the south half of Section 33, Township 5 North, Range 1 East and the NE quarter of Section 4, Township 4 North, Range 1 East of the W.M.

Applicable Laws:

Clark County Code: Title 15 (Fire Prevention), Section 40.210.020 (Rural Residential Zoning District), Section 40.350 (Transportation), Section 40.350.020 (Transportation Concurrency), Chapter 40.380 (Storm Water Drainage and Erosion Control), Section 40.410 (Critical Aquifer Recharge Area), Section 40.420.010 (Flood Hazard Area), Section 40.430 (Geologic Hazard Areas), Section 40.440 (Habitat Conservation), Section 40.450 (Wetland Protection Ordinance), Section 40.460 (Shoreline Overlay District), Sections 40.500 and 40.510 (Procedures), Section 40.520.060 (Post Decision Procedures), Appendix D of Clark County Code Title 40 (Guidelines for Post Decision Reviews), Section 40.540 (Land Division Ordinance), Section 40.570 (SEPA), Section 40.570 (SEPA Archaeological), Section 40.610 (Impact Fees), Title 24 (Public Health), Clark County Shoreline Management Master Program, the Clark County Comprehensive Plan, WAC 173-27 and RCW 90.90.58

Neighborhood Association/Contact:

No mapping, but a courtesy copy of the notice was sent to: Neighborhood Advisory Council of Clark County (NACCC) Art Stubbs, Vice Chair 6804 NE 86th Court; Vancouver, WA 98662 sixsplus8@aol.com

Vesting:

An application is reviewed against the subdivision, zoning, transportation, stormwater and other land development codes in effect at the time a fully complete application for preliminary approval is submitted. If a pre-application conference is required, the application shall earlier contingently vest on the date the fully complete pre-application is filed. Contingent vesting requires that a fully complete application for substantially the same proposal is filed within 180 calendar days of the date the county issues its pre-application conference report.

No pre-application conference on this matter was held. The fully complete application was submitted on June 3, 2009 determined to be fully complete on June 17, 2009. Given these facts the application is vested on June 3, 2009.

There are no disputes regarding vesting.

Time Limits:

The application was determined to be fully complete on June 17, 2009 (see Exhibit #7). Therefore, the County Code requirement for issuing a decision within 92 days lapses on September 15, 2009.

Public Notice:

Notice of application and public hearing was mailed to the applicant, the Neighborhood Advisory Council of Clark County and property owners within 500 feet of the site on July 1, 2009. Note: This site is not located within the boundaries of a recognized neighborhood association.) One sign was posted on the subject property and two within the vicinity on August 12, 2009.

Public Comments:

No public comments were submitted for this proposal.

Project Overview

The site is located northwest of the LaCenter City limits. On January 1, 2008 it was brought into the Urban Growth Boundary for LaCenter and zoned R-12 and R-1.6 with an UH-20 overlay. However, the application contingently vested under the R-5 zone district in 2007 so it is being reviewed under those standards.

This is a 51.34 acre parcel that obtained preliminary approval in 2008 to be divided into 10 lots using the Cluster Development provisions of the Clark County Code. Staff pointed out in their staff report that the density for cluster developments is 110% of the gross area of the site and they could have requested 11 lots. The applicant requested the Examiner add the 11th lot at the previous hearing however no public notice had been sent or review completed for the 11th lot. The Hearing Examiner made it a condition of approval to allow the 11th lot via a "post decision review or replat subject to all appropriate regulations and fees" (Condition D-31 of PLD2008-00008).

The applicant also requests to reconfigure lots 4 through 7 by moving the lot lines to give lot 4 an additional 20 feet in width to allow for easier access around the stormwater pond. Lot 8 was moved further west and divided into two lots to accommodate the proposed 11th lot. Lot 9 moved to the north and the remainder parcel now includes what used to be lot 9.

The applicant has received approval of a previous post decision (PST2008-00028, Exhibit 16) review to allow demarcation of wetlands and habitat areas as the phases develop.

Compass	Comp Plan	Zoning	Current Land Use
Site	UM and UL	R-12 with a UH-20 overlay and R-1.6 with a UH-20 overlay	Residential and agriculture (subdivision contingently vested in the R-5 zone in 2007)
North	UM and UL	R-12 with a UH-20 overlay and R-1.75	Residential and agriculture
East	UM and UL	R-12 with a UH-20 overlay, R- 1.75 with a UH-10 overlay and R1-7.5	Residential and vacant land
South	UL	R1-6 with an UH-20 overlay	Vacant forested land and the Lewis River
West	R-5 with an UR overlay	R-5 with a UR-10 overlay	Residential and agriculture

Staff Analysis

Staff first analyzed the proposal in light of the 16 topics from the Environmental Checklist (see list below). The purpose of this analysis was to identify any potential adverse environmental impacts that may occur without the benefit of protection found within existing ordinances.

1. Earth	9. Housing
2. Air	10. Aesthetics
3. Water	11. Light and Glare
4. Plants	12. Recreation
5. Animals	13. Historic and Cultural Preservation
6. Energy and Natural Resources	14. Transportation
7. Environmental Health	15. Public Services
8. Land and Shoreline Use	16. Utilities

Staff then reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts could be mitigated through application of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period, and knowledge gained through a site visit.

Major Issues:

Only the major issues, errors in the development proposal, and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposal not discussed below comply with the applicable code requirements.

LAND USE:

Finding #1

Adding the eleventh lot, adjusting the lot lines, moving lots 9 and 8 and making lot 8 smaller alters some of the required setbacks for the lots. Lot 5 now requires a 50 foot front yard setback as well as the rear yard setback. Lots 3, 8 and new lot 11 also require a 50 foot rear yard setback. The other lots that need revised setbacks are covered in condition D-3 of the previous Hearing Examiner's decision. The building envelopes will need to be revised prior to recording of the plat. (See Condition #D-1)

Finding #2

The new plat shows lot 9 where lot 10's building envelope used to be but does not show a new building envelope for lot 10. Lot 10 needs a building envelope either where lot 9 used to be or between lots 9 and 11 because that is the only area on the remainder parcel was reviewed for archeological resources (Exhibit 12). If the building envelope includes the area where lot 9 used to be, 50 foot front and rear setbacks are required. This will need to be shown on the final plat map. (See Conditions #D-2 and D-3)

Finding #3

Because lot 9 moved, condition D-10 of the previous Hearing Examiner's decision needs to be modified. It will now need to state: "The applicant shall either obtain a shoreline conditional use permit for phase 1 (lot 10) or adjust the area under shoreline jurisdiction outside the plat". (See Condition #D-4)

Finding #4

Changing the plat also somewhat alters the previous condition D-7 in that the exhibit number is incorrect. This is easily remedied by removing that condition and adding one that addresses the new plat map. (See Condition #D-5)

Finding #5

In order to record the plat with one acre lots as shown, either small public water supplies or public water must be used unless a Method II application is approved by the Health Department. If a Method II analysis is not approved and individual wells are used because of low water quantities in the wells, the lots are required by the Health Department to be two acres in size. If this occurs the applicant will need to combine the one acre lots to meet the two acre lot size since two acre lots have not been reviewed or noticed. (See Condition #D-6)

Finding #6

The notice of application sent for this proposal on July 1, 2009 did not include a SEPA determination. This was discovered by staff two days prior to issuing the staff report. Because of this, the comment period for the SEPA will not conclude until August 26, 2009 and the SEPA appeal period will not conclude until September 9, 2009. Therefore, staff requests the record be left open until September 10, 2009 for any SEPA appeals.

Conclusion (Land Use):

Staff concludes that the proposed preliminary plan, subject to conditions identified above, meets the land use requirements of the Clark County Code.

ARCHAEOLOGY:

Finding #1

Much of the site is mapped on county archaeological predictive maps as having a moderate to high potential for containing artifacts. The site is also within ¼ mile of a know archeological site. Thus, the applicant was required to perform an additional archaeological predetermination for the location of the new lot.

Finding #2

An archaeological predetermination on the site was conducted and the results of the investigation were sent to the Department of Archaeology & Historic Preservation (DAHP). DAHP concurred with the recommendation that no further work be conducted unless the plans change and development is planned outside the area reviewed (Exhibit 12).

Conclusion (Archaeology):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the archaeology requirements of the Clark County Code.

WETLAND:

Finding 1

Under the preliminary review, the applicant had proposed a 10 lot subdivision. 10 residential lots on this 51.34 acre site met the criteria for Low Intensity land use (density at or lower than 1 unit per 5 acres; see Table 40.450.030-5).

Adding an eleventh lot on this 51.34 acre site results in residential density "between 1 unit per acre and higher than 1 unit per 5 acres," which meets the criteria for Moderate Intensity land use (see Table 40.450.030-5).

Finding 2

The site contains Category IV wetlands in the vicinity of the development. The preliminary wetland permit reviewed wetland and buffer impacts based on Low Intensity (25-foot) buffers in the vicinity of the residential lots.

The applicant has submitted a Revised Wetland Buffer Plan dated August 3, 2009, prepared by Ecological Land Services, Inc. (see Exhibit 15). The revised plan shows the corrected Moderate Intensity Buffers in the vicinity of the residential lots.

Finding 3

The proposed development impacts approximately 7,909 square feet of wetland buffer which must be replaced on the site. The applicant had previously proposed to replace the buffer in an area adjacent to Lots 1 and 2. The increased Moderate Intensity buffer sizes change the layout so that the area adjacent to Lots 1 and 2 is not available for buffer replacement. The applicant now proposes to replace the 7,909 square feet of buffer in an area of the northeast corner of the property (see Exhibit 15).

The wetland buffer impacts are associated with construction of a new road. Crossing buffers with new roads is allowed provided buffer functions are replaced and impacts are minimized (see CCC 40.450.040(C)(5). Staff finds that the proposed buffer replacement in the Revised Wetland Buffer Plan (Exhibit 15) meets these criteria. (See Conditions D-8 and D-9)

Conclusion (Wetlands):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the wetland requirements of the Clark County Code.

ENGINEERING:

Staff has reviewed the subject case and do not find where the creation of one additional lot and the reconfiguring of some lot lines will change any of the stormwater, transportation, or geotechnical findings or conditions of the previous Hearing Examiner's decision.

FIRE PROTECTION:

Finding #1 – Fire Marshal Review

Fire Marshal staff has reviewed the case and do not find where the creation of one additional lot and the reconfiguring of some lot lines will change any of the fire protection findings or conditions of the previous Hearing Examiner's decision.

Conclusion (Fire Protection):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the fire protection requirements of the Clark County Code.

WATER & SEWER SERVICE:

Finding #1

The use of small public water systems (SPWS), wells or Clark PUD water and septic systems are proposed to serve the site. A "Health Department Evaluation Letter" has been submitted granting conditional approval for the new lot and lot configuration. A small public water system well serves 2 to 14 residences. Due to the variable quantities of water found in wells in this vicinity, it is not possible to determine if one, two or three SPWS wells would be required or if the quantities might only satisfy individual well requirements. If some individual wells are required, the Health Department will need to review the plat again. Some of the issues that would need to be addressed in the case of individual wells are: location of the well on the lot served, minimum lot area of 2 acres unless a Method II application is approved, and the 100-foot protection radii around all the wells must within the exterior boundaries of the subdivision. (See Condition #D-6)

Finding #2

An existing well and septic system on lot 2 was originally proposed to be abandoned. The septic system will still be abandoned however the well may be retained as a SPWS or an irrigation well. If the well is kept, new test holes for the septic system will be required outside the 100-foot zone of protection. (See Condition #D-7)

Conclusion (Water & Sewer Service):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the water and sewer service requirements of the Clark County Code.

SEPA DETERMINATION

As lead agency under the State Environmental Policy Act (SEPA) Rules [Chapter 197-11, Washington Administrative Code (WAC)], Clark County must determine if there are possible significant adverse environmental impacts associated with this proposal. The options include the following:

- DS = Determination of Significance (The impacts cannot be mitigated through conditions of approval therefore, requiring the preparation of an Environmental Impact Statement (EIS);
- MDNS = Mitigated Determination of Non-Significance (The impacts can be addressed through conditions of approval); or,
- **DNS** = **Determination of Non-Significance** (The impacts can be addressed by applying the County Code).

Determination:

Determination of Non-Significance (DNS). As lead agency, the county has determined that the requirements for environmental analysis, protection, and mitigation measures are adequately addressed in the development regulations and comprehensive plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws rules, as provided by RCW 43.21.240 and WAC 197-11-158. Our agency will not require any additional mitigation measures under SEPA. The proposal may include mitigation under applicable codes and the project review. This decision was made after review of a completed environmental checklist and other information on file with the County.

Date of Publication & Comment Period:

Publication date of this likely DNS is August 12, 2009 and is issued under WAC 197-11-340. The lead agency will not act on this proposal until the close of the 14-day comment period, which ends on August 26, 2009.

Staff Contact Person: Terri Brooks, Planner, (360) 397-2375, ext. 4885

Travis Goddard, Team Leader, (360) 397-2375, ext.4180

Responsible Official: Michael V. Butts

Public Service Center
Community Development Department
1300 Franklin Street
P.O. Box 9810
Vancouver, WA 98666-9810

Phone: (360) 397-2375; Fax: (360) 397-2011 Web Page at: http://www.clark.wa.gov

RECOMMENDATION

Based upon the proposed plan (identified as Exhibit 5), and the findings and conclusions stated above, staff recommends the Hearings Examiner **APPROVE** this request, subject to the understanding that the applicant is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval:

Conditions of Approval

A Final Construction Plan Review for Land Division Review & Approval Authority: Development Engineering

Prior to construction, a Final Construction shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

A-1 None

B Prior to Construction of Development

Review & Approval Authority: Development Inspection

Prior to construction, the following conditions shall be met:

B-1 None

C Provisional Acceptance of Development Review & Approval Authority: Development Inspection

Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/land division plan and the following conditions of approval:

C-1 None

D | Final Plat Review & Recording

Review & Approval Authority: Development Engineering

Prior to final plat approval and recording, the following conditions shall be met:

D-1 Revise the building envelopes on lots 4 and 5 to include a 50 foot front yard setback and lots 3, 8 and 11 to show a 50 foot rear yard setback. (See Land Using Finding #1)

- D-2 The building envelope for lot 10 must be located south of lot 9 or between lots 9 and 11 and no further north than those lots. (See Land Use Finding #2 and Archeology Finding #2)
- **D-3** 50 foot front and rear setbacks are required if the area south of lot 9 includes the building envelope. (See Land Use Finding #2)
- D-4 Delete previous condition D-10 and replace with: The applicant shall either obtain a shoreline conditional use permit for phase 1 (lot 10) or adjust the area under shoreline jurisdiction outside the plat. (See Land Use finding #3)
- D-5 Delete previous condition D-7 and replace with: All lots must be served either by public water or small public water supplies except those lots shown on the preliminary plat map in 5 as 2 acres or more. (See Land Use finding #4)
- D-6 If individual wells must be used and a Method II application is not approved for 1 acre lots, the lots shall be combined and not expanded to 2 acres each. (See Land Use Finding #5 and Water and Sewer Finding #1)
- **D-7** If the well on lot 2 is kept, new test holes for the septic system are required outside the 100-foot zone of protection. (See Water and Sewer Finding #2)
- D-8 Revise previous condition D-11 in the Hearing Examiner's decision and replace with: The applicant shall implement the "Wetland Delineation Addendum For Wetland Delineations Completed in July 2005, March 2006, and October 2007," prepared by Ecological Land Services, dated May 1, 2008 (Exhibit 1), except as amended by PST2008-00028, the 8/3/09 Exhibit 15, and herein.
- **D-9** Revise previous condition D-17-a in the Hearing Examiner's decision and replace with: a. The wetland and buffer boundaries, including areas designated for buffer replacement shall be delineated on the face of the Final Plat. D-17 b and c remain the same.
- **D-10** Except as modified with this post decision review or PST2008-00028, all conditions of the original subdivision review shall be met.

E Building Permits

Review & Approval Authority: Customer Service

Prior to issuance of a building permit, the following conditions shall be met:

E-1 None

F Occupancy Permits

Review & Approval Authority: Building

Prior to issuance of an occupancy permit, the following conditions shall be met:

F-1 None

- G Development Review Timelines & Advisory Information Review & Approval Authority: None Advisory to Applicant
- G-1 None
- H Post Development Requirements
 Review & Approval Authority: As specified below

H-1 None

Note: Any additional information submitted by the applicant within fourteen (14) calendar days prior to or after issuance of this report, may not be considered due to time constraints. In order for such additional information to be considered, the applicant may be required to request a "hearing extension" or "open record" and shall pay the associated fee.

HEARING EXAMINER DECISION AND APPEAL PROCESS

This report to the Hearing Examiner is a recommendation from the Development Services Division of Clark County, Washington.

The Examiner may adopt, modify or reject this recommendation. The Examiner will render a decision within 14 calendar days of closing the public hearing. The County will mail a copy of the decision to the applicant and neighborhood association within 7 days of receipt from the Hearing Examiner. All parties of record will receive a notice of the final decision within 7 days of receipt from the Hearing Examiner.

An **appeal** of any aspect of the Hearing Examiner's decision, <u>except</u> the SEPA determination (i.e., procedural issues), may be appealed to the Board of County Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The appeal shall be filed with the Board of County Commissioners, Public Service Center, 1300 Franklin Street, Vancouver, Washington, 98668, within fourteen (14) calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the final land use decisions shall be in writing and contain the following:

- Case number designated by the County;
- Name of the applicant;
- · Name of each petitioner;
- Signature of each petitioner or his or her duly authorized representative;
- A statement showing the following:

- That each petitioner is entitled to file the appeal as an interested party in accordance with CCC 40.510.030(H);
- o The specific aspect(s) of the decision being appealed;
- o The reasons why each aspect is in error as a matter of fact or law;
- o The evidence relied on to prove the error; and,
- The appeal fee of \$716

The fee shall be refunded if the appeal is withdrawn in writing by the petitioner at least 15 calendar days before the public meeting to consider the appeal.

The Board of Commissioners shall hear appeals of decisions based upon the written record before the examiners, the examiner's decision, and any written comments received in the office of the Board within the following submittal deadlines measured from the date of the filing of the appeal:

- Fourteen (14) calendar days for the appellant's initial comments;
- Twenty-eight (28) calendar days for all responding comments; and,
- Thirty-five (35) calendar days for appellant reply comments, which are limited to the issues raised in the respondent's comments.

Written comments shall be limited to arguments asserting error in or support of the examiner decision based upon the evidence presented to the examiner.

Unless otherwise determined by the Board for a specific appeal, the Board shall consider appeals once a month, on a reoccurring day of each month. The day of the month on which appeals are considered shall be consistent from month to month as determined by Board.

The Board may either decide the appeal at the designated meeting or continue the matter to a limited hearing for receipt of oral argument. If continued, the Board of Commissioners shall designate the parties or their representatives to present argument, and permissible length thereof, in a manner calculated to afford a fair hearing of the issues specified by the Board of Commissioners. At the conclusion of its public meeting or limited hearing for receipt of oral legal argument, the Board of Commissioners may affirm, reverse, modify or remand an appealed decision.

Ninety percent (90%) of the fee will be refunded if the appeal is withdrawn in writing by the petitioner at least 15 calendar days before the public meeting to consider the appeal.

Attachments:

- Copy of Proposed Preliminary Plan
- Buffer Averaging Plan, if applicable
- Exhibit List

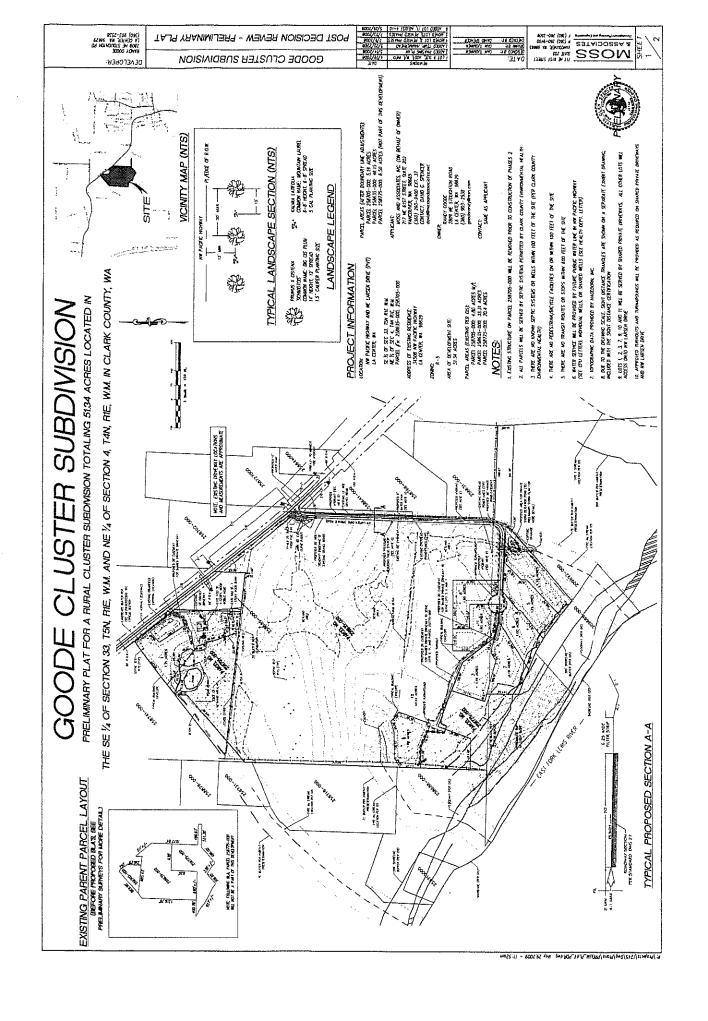
A copy of the approved preliminary plan, SEPA Checklist and Clark County Code are available for review at:

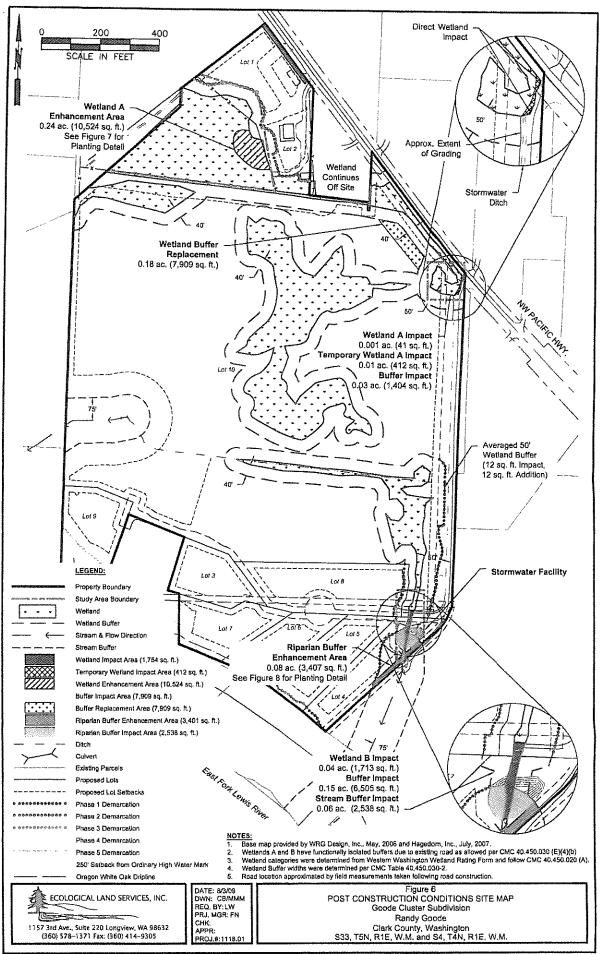
Public Service Center Community Development Department 1300 Franklin Street P.O. Box 9810

Vancouver, WA 98666-9810 Phone: (360) 397-2375; Fax: (360) 397-2011

A copy of the Clark County Code is also available on our Web Page at: Web Page at: http://www.clark.wa.gov

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HEARING EXAMINER EXHIBITS

APPLICATION:

Goode Cluster Subdivision

CASE NUMBERS: HEARING DATE:

PST2009-00014 August 27, 2009



2		CC Development Services	
2		1	Aerial Map
	1	CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	6/3/09	Applicant: Moss & Associates	Full Size Preliminary Plat Map
6	6/3/09	Applicant: Moss & Associates	Application DVD: Application form; Original Development Decision, Narrative, Approved Plans, GIS Packet, Minor Traffic Profile, SEPA Checklist, Health Dept Review, Septic Review, Arch Pre-Det
7	6/17/09	CC Development Services	Development Review Fully Complete Determination
8	7/1/09	CC Development Services	Notice of Type III Development Review Application & Public Hearing
9	7/1/09	CC Development Services	Affidavit of Mailing Public Notice
10	6/23/09	CC Development Services	Email re: Engineering Fees
11	7/14/09	CC Development Services	Email re: Covenant Recording
12	6/29/09	DAHP	Archaeology Letter
13	7/22/09	Terri Brooks, Planner	Early Issues
14	7/24/09	Applicant: Moss & Associates	Affidavit of Posting Land Use Sign
15	8/3/09	Applicant: Ecological Land Services	Revised Wetland Buffer Plan
16	10/15/08	CC Development Services	Type 1 Development Review Staff Rpt
17	8/7/09	CC Development Services	Notice of Public Hearing to the Columbian – Published 8/12/09
18	8/12/09	CC Development Services	Affidavit of Posting Public Notice
19	8/12/09	CC Development Services – Terri Brooks, the Project Planner	Type III Development & Environmental Review, Staff Report & Recommendation

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Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division

1300 Franklin Street